IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
WRIT PETITION NO. 2846 OF 2003

Bhagwan Keshav Patil & Ors. .....Petitioners.

V/s

Laxman Gundappa Apradh & Ors. .... Respondents.

Mr. V.B. Rajure for Petitioners.

Mr. P.V. Badadane i/b Mr. P.R. Arjunwadkar for petitioners.

CORAM: A. S. OKA, J.

DATE : 15th February, 2007

P.C:

1. Heard Mr. Rajure, the learned Advocate appearing for Petitioners.

2. Petitioners - original plaintiffs have taken exception to the judgment and order dated 21st July, 2000 passed by the trial court on an application for amendment of written statement filed by Respondent No.1 (original defendant No.1).

3. The submission of Mr. Rajure is that the amendment was sought for the purpose of incorporating counter-claim in the written statement. His submission is that the impugned order is illegal as it was not permissible to Respondent No.1

to make a counter-claim.

4. In my view, this Petition need not be entertained as the Petitioners can always challenge the order impugned in a substantive appeal in case any decree is passed against petitioners in the counter-claim. The contentions which are raised in this Petition can always be raised in such substantive appeal, if occasion for preferring such appeal arises.

5. Apart from this aspect, Petitioners can always file written statement and raise contention that the counter-claim is not maintainable considering the frame of the suit. Petitioners can also apply under Rule 6-C of Order VIII of the Civil Procedure Code, 1908.

6. Subject to what is stated above, Writ Petition is rejected.

(A.S. OKA, J.)